

Queensland Government response:

Competition policy review final report

Introduction

This submission provides the Queensland Government's response to the Final Report of the Competition Policy Review.

The Queensland Government is generally supportive of proposals which increase competition and which lead to real and meaningful benefits to people and the economy.

Microeconomic reforms can increase economic growth and productivity.

The Queensland Government notes the recommendations which fall within the Commonwealth's responsibilities and encourages the Commonwealth Government to assess them on the above basis; that is, in terms of their potential gains to people and the economy.

The Queensland Government encourages the Commonwealth to provide incentives to States and Territories to adopt competition reforms. These incentives should be considered further through the COAG process.

It makes the following response to the recommendations in areas of direct responsibility, or with special economic or policy significance to Queensland.

Response to recommendations

Recommendation 1

Competition Principles

The Australian Government, state and territory, and local governments should commit to the following principles:

- Competition policies, laws and institutions should promote the longterm interests of consumers.
- Legislative frameworks and government policies and regulations binding the public or private sectors should not restrict competition.
- Governments should promote consumer choice when funding, procuring or providing goods and services and enable informed choices by consumers.
- The model for government provision or procurement of goods and services should separate the interests of policy (including funding), regulation and service provision, and should encourage a diversity of providers.
- Governments should separate remaining public monopolies from competitive service elements, and also separate contestable elements into smaller independent business activities.
- Government business activities that compete with private provision, whether forprofit or notforprofit, should comply with competitive neutrality principles to ensure they do not enjoy a net competitive advantage simply as a result of government ownership.
- A right to thirdparty access to significant bottleneck infrastructure should be granted where it would promote a material increase in competition in dependent markets and would promote the public interest.
- Independent authorities should set, administer or oversee prices for natural monopoly infrastructure providers.

Applying these principles should be subject to a public interest test, such that legislation or government policy should not restrict competition unless:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation or government policy can only be achieved by restricting competition.

The Queensland Government supports in-principle a new set of competition principles as the current principles are overly long and dated.

The proposed principles are generally suitable, provided they are set in context by a preamble which underlines that the purpose of competition policy is not competition for its own sake but public benefit, and recognises the continued case for some public interest exceptions. These exceptions need rigorous justification.

The implementation of the principles needs to recognise that States and Territories are responsible for implementation in their areas of responsibility.

Recommendation 2

Human services

Each Australian government should adopt choice and competition principles in the domain of human services.

Guiding principles should include:

- User choice should be placed at the heart of service delivery.
- Governments should retain a stewardship function, separating the interests of policy (including funding), regulation and service delivery.
- Governments commissioning human services should do so carefully, with a clear focus on outcomes.
- A diversity of providers should be encouraged, while taking care not to crowd out community and volunteer services.

Innovation in service provision should be stimulated, while ensuring minimum standards of quality and access in human services.

The Queensland Government notes the recommendation.

The Queensland Government is a major provider of human services including health, education, community services and housing assistance, including social housing and homelessness services.

The Queensland Government recognises that there are arguments that increased competition and choice in human services could improve outcomes for consumers and governments, and it supports clarity in policy, regulation and service delivery and outcome-focussed commissioning.

However, in light of the complexity of the human services sectors' operation, the Queensland Government is not yet convinced of the case for expansion of the scope of competition policy and regulation into human services along the lines recommended.

Queensland seeks participation in further policy analysis of the case for stand-alone competition and choice principles in relation to human services (e.g. through inter-jurisdictional working groups). Matters that should be investigated include, but are not limited to:

- How competition and choice principles could work in practice and especially how they will be balanced with other considerations in human services policy and delivery (e.g. quality, access, equity, targeting, value for money, remote and regional issues, funding arrangements) to ensure better outcomes for consumers and governments.
- What processes could be used (e.g. pilots, market assessments, modelling, international reviews) to build the empirical evidence on the benefits (and

costs) of competition and choice principles in human services. What level of evidence should be sufficient for Government commitment to reforms?

- The practical implications for the Queensland Government and other State Governments of key proposals such as user choice (particularly where services are rationed) and separating the policy, regulation and delivery of human services. This includes consideration of ways to ensure that competition principles regarding human service delivery do not unduly encroach on the government's ability to deliver important and justifiable social programs.
- Potential impact of competition and choice principles on both the human services sector workforce and on current private participants in human services market.

The central factor remains that human services consumers must benefit – and know that they will benefit – from human services reforms. In addition, governments must be assured that outcomes are improved and that any implications for funding can be satisfactorily addressed. These matters require considerable further analysis and development. Queensland therefore considers that it would not be feasible or desirable to implement this recommendation in advance of this further work.

Recommendation 3

Road transport

Governments should introduce cost-reflective road pricing with the aid of new technologies, with pricing subject to independent oversight and revenues used for road construction, maintenance and safety.

To avoid imposing higher overall charges on road users, governments should take a cross-jurisdictional approach to road pricing. Indirect charges and taxes on road users should be reduced as direct pricing is introduced. Revenue implications for different levels of government should be managed by adjusting Australian Government grants to the States and Territories.

The Queensland Government supports further development of the proposal.

It considers that the first priority in cost-reflective road pricing should be improved heavy vehicle charging.

A policy solution will need to be developed on a holistic and cross-jurisdictional basis, with Commonwealth leadership, as a national solution is needed. This will need to include consideration of changes to road investment and funding arrangements that facilitate cost-reflective pricing. For example, it will need to effectively address Commonwealth-State fiscal and road funding implications, including Commonwealth agreement to hypothecate its existing road user charging revenues. It will also need to be practical to implement, and be seen as fair and rational by the road industry.

Recommendation 8

Regulation review

All Australian governments should review regulations, including local government regulations, in their jurisdictions to ensure that unnecessary restrictions on competition are removed.

Legislation (including Acts, ordinances and regulations) should be subject to a public interest test and should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

Factors to consider in assessing the public interest should be determined on a case-by-case basis and not narrowed to a specific set of indicators.

Jurisdictional exemptions for conduct that would normally contravene the competition law (by virtue of subsection 51(1) of the Competition and Consumer Act 2010 (Cth) (CCA)) should also be examined as part of this review, to ensure they remain necessary and appropriate in their scope. Any further exemptions should be drafted as narrowly as possible to give effect to their policy intent.

The review process should be transparent, with highest priority areas for review identified in each jurisdiction, and results published along with timetables for reform.

The review process should be overseen by the proposed Australian Council for Competition Policy (ACCP) (see Recommendation 43) with a focus on the outcomes achieved rather than processes undertaken. The ACCP should publish an annual report for public scrutiny on the progress of reviews of regulatory restrictions.

The Queensland Government is committed to an effective regulatory review system. It supports the Report's recommendation and will implement it within the framework of its current regulatory review system.

This system is based on agency-level review with an overlay of independent guidance and advice (by the Queensland Productivity Commission from 2015-16).

The Queensland Government supports the ACCP overseeing Australian regulatory review processes, on the basis that the ACCP's function will be to develop high-level principles and frameworks and monitor progress, with jurisdictions remaining responsible for detailed implementation.

Recommendation 9

Planning and zoning

Further to Recommendation 8, state and territory governments should subject restrictions on competition in planning and zoning rules to the public interest test, such that the rules should not restrict competition unless it can be demonstrated that the benefits of the restriction to the community as a whole outweigh the costs, and the objectives of the rules can only be achieved by restricting competition.

The following competition policy considerations should be taken into account:

- Arrangements that explicitly or implicitly favour particular operators are anticompetitive.
- Competition between individual businesses is not in itself a relevant planning consideration.
- Restrictions on the number of a particular type of retail store contained in any local area is not a relevant planning consideration.
- The impact on the viability of existing businesses is not a relevant planning consideration.
- Proximity restrictions on particular types of retail stores are not a relevant planning consideration.
- Business zones should be as broad as possible.
- Development permit processes should be simplified.
- Planning systems should be consistent and transparent to avoid creating incentives for gaming appeals.

An independent body, such as the ACCP (see Recommendation 43) should be tasked with reporting on the progress of state and territory governments in assessing planning and zoning rules against the public interest test.

The Queensland Government notes the recommendation. It recognises the impact of planning and zoning arrangements on competition and the economic benefits of increased competition. However, in light of other variables in zoning and planning such as local determination, liveability, infrastructure provision and environmental sustainability, it is not convinced that competition should be singled out in the way proposed by the Panel.

Recommendation 10

Priorities for regulation review

Further to Recommendation 8, and in addition to reviewing planning and zoning rules (Recommendation 9), the following should be priority areas for review:

Taxis and ridesharing: in particular, regulations that restrict numbers of taxi licences and competition in the taxi industry, including from ridesharing and other passenger transport services that compete with taxis.

Mandatory product standards: i.e., standards that are directly or indirectly mandated by law, including where international standards can be adopted in Australia.

The Queensland Government notes the recommendation. It is currently in discussions with the taxi and ride sharing industries about the regulatory regime covering the industry and will continue to work to ensure competitive, efficient, responsive and safe commercial personal transport services.

Recommendation 12

Retail trading hours

Remaining restrictions on retail trading hours should be removed. To the extent that jurisdictions choose to retain restrictions, these should be strictly limited to Christmas Day, Good Friday and the morning of ANZAC Day, and should be applied broadly to avoid discriminating among different types of retailers. Deregulating trading hours should not prevent jurisdictions from imposing specific restrictions on trading times for alcohol retailing or gambling services in order to achieve the policy objective of harm minimisation.

The Queensland Government notes the recommendation. It has no current plans to review retail trading hours, which are regulated under the Trading (Allowable Hours) Act 1990 and through orders made by an independent tribunal, the Queensland Industrial Relations Commission.

Recommendation 14

Pharmacy

The Panel considers that current restrictions on ownership and location of pharmacies are not needed to ensure the quality of advice and care provided to patients. Such restrictions limit the ability of consumers to choose where to obtain pharmacy products and services, and the ability of providers to meet consumers' preferences.

The Panel considers that the pharmacy ownership and location rules should be removed in the longterm interests of consumers. They should be replaced with regulations to ensure access to medicines and quality of advice regarding their use that do not unduly restrict competition.

Negotiations on the next Community Pharmacy Agreement offer an opportunity for the Australian Government to implement a further targeted relaxation of the location rules, as part of a transition towards their eventual removal. If changes during the initial years of the new agreement prove too precipitate, there should be provision for a midterm review to incorporate easing of the location rules later in the life of the next Community Pharmacy Agreement.

A range of alternative mechanisms exist to secure access to medicines for all Australians that are less restrictive of competition among pharmacy services providers. In particular, tendering for the provision of pharmacy services in underserved locations and/or funding through a community service obligation should be considered. The rules targeted at pharmacies in urban areas should continue to be eased at the same time that alternative mechanisms are established to address specific issues.

The Queensland Government notes the recommendation. The Queensland Government supports improved access and pricing for pharmacy services and products. Quality of advice is a very important element and the Queensland Government recognises that there are several mechanisms which can ensure quality of advice. This is not limited to ownership rules and includes the development of standards and regulation of who can dispense medications and provide advice.

The regulation of the location of pharmacies needs to be exercised with care as there are different factors in play in urban, fringe urban, regional, rural and remote locations. Where there is a range of potential service providers, and a viable competitive market, there is less need for locational regulation. In more remote locations, it is important to ensure that there is access to medication dispensing services, advice regarding medications as well as general health advice. In these locations, pharmacy services can have community service characteristics and their continued operation is important to the local community.

Recommendation 15

Competitive neutrality policy

All Australian governments should review their competitive neutrality policies. Specific matters to be considered should include: guidelines on the application of competitive neutrality policy during the startup stages of government businesses; the period of time over which startup government businesses should earn a commercial rate of return; and threshold tests for identifying significant business activities.

The review of competitive neutrality policies should be overseen by an independent body, such as the proposed ACCP (see Recommendation 43).

See response to Recommendation 17.

Recommendation 16

Competitive neutrality complaints

All Australian governments should increase the transparency and effectiveness of their competitive neutrality complaints processes. This should include at a minimum:

- assigning responsibility for investigation of complaints to a body independent of government;
- a requirement for government to respond publicly to the findings of complaint investigations; and
- annual reporting by the independent complaints bodies to the proposed ACCP (see Recommendation 43) on the number of complaints received and investigations undertaken.

See response to Recommendation 17.

Recommendation 17

Competitive neutrality reporting

To strengthen accountability and transparency, all Australian governments should require government businesses to include a statement on compliance with competitive neutrality principles in their annual reports.

The proposed ACCP (see Recommendation 43) should report on the experiences and lessons learned from the different jurisdictions when applying competitive neutrality policy to human services markets.

The Queensland Government supports the competitive neutrality recommendations and is committed to an effective Queensland competitive neutrality system.

Competitive neutrality policy and complaints functions are currently undertaken by both by the Queensland Government and an independent body, the Queensland Competition Authority (QCA) (depending on the nature of the Government business in scope) and are consistent with the proposal. The Queensland Productivity Commission will be assuming the independent review role from 2015-16.

The Queensland Government supports the ACCP overseeing Australian regulatory review processes, on the basis that the ACCP's function will be to develop high-level principles and frameworks and monitor progress, with jurisdictions remaining responsible for detailed implementation.

Recommendation 18

Government procurement and other commercial arrangements

All Australian governments should review their policies governing commercial arrangements with the private sector and nongovernment organisations, including procurement policies, commissioning, publicprivate partnerships and privatisation guidelines and processes.

Procurement and privatisation policies and practices should not restrict competition unless:

- the benefits of the restrictions to the community as a whole outweigh the costs; and
- the objectives of the policy can only be achieved by restricting competition.

An independent body, such as the ACCP (see Recommendation 43), should be tasked with reporting on progress in reviewing government commercial policies and ensuring privatisation and other commercial processes incorporate competition principles.

The Queensland Government supports the recommendation in-principle. It does not have a privatisation program. It agrees that other commercial arrangements of the public sector should incorporate competitive principles. It notes, however, that the government should not be held accountable for non-compliance if the commercial arrangements are not an 'activity in trade or commerce' (please see our comments in relation to Recommendation 24).

The Queensland Government also notes that exceptions can sometimes be justified on public interest grounds. There may be cases where there are special circumstances, or competitive processes are impractical, or are likely to lead to excessive cost to government. For example, there needs to be some flexibility in procurement where markets are limited and/or developing, such as the community housing sector, and regional and remote areas where competitive procurement may not be possible or beneficial.

Government may also seek to foster opportunities within certain categories of expenditure with the aim of building diversity, capability and capacity, or stimulating innovation in certain markets (e.g. indigenous businesses, small and medium sized enterprises or social ventures).

Any exceptions should be minimised and decided by a rigorous process which ensures that there is valid public interest case.

Recommendation 19

Electricity and gas

State and Territory governments should finalise the energy reform agenda, including through:

- application of the National Energy Retail Law with minimal derogation by all National Electricity Market jurisdictions;
- deregulation of both electricity and gas retail prices; and
- the transfer of responsibility for reliability standards to a national framework administered by the proposed Access and Pricing Regulator (see Recommendation 50) and the Australian Energy Market Commission (AEMC).

The Panel supports moves to include Western Australia and the Northern Territory in the National Electricity Market, noting that this does not require physical connection.

The Australian Government should undertake a detailed review of competition in the gas sector.

The Queensland Government supports further development of the energy reform agenda, noting that Queensland is undertaking further investigation of retail electricity price deregulation as part of a broader review into electricity pricing to be conducted by the Queensland Productivity Commission. Legislation to apply the National Energy Retail Law (NERL) in Queensland commences on 1 July 2015, with a review of the operation of the legislation to be undertaken by 2018.

Queensland is also actively participating in the coordinated national work to develop output focused reliability principles for jurisdictions.

Recommendation 20

Water

All governments should progress implementation of the principles of the National Water Initiative, with a view to national consistency. Governments should focus on strengthening economic regulation in urban water and creating incentives for increased private participation in the sector through improved pricing practices.

State and territory regulators should collectively develop bestpractice pricing guidelines for urban water, with the capacity to reflect necessary jurisdictional differences. To ensure consistency, the ACCP (see Recommendation 43) should oversee this work.

State and territory governments should develop clear timelines for fully implementing the National Water Initiative, once pricing guidelines are developed. The ACCP should assist States and Territories to do so.

Where water regulation is made national, the responsible body should be the proposed national Access and Pricing Regulator (see Recommendation 50) or a suitably accredited state body.

The Queensland Government supports this recommendation in-principle. It agrees that water pricing should continue its reform-path. It supports further work on national consistency in water regulation where a clear benefit from harmonisation can be demonstrated in the absence of a national market.

Both of these positions are on the basis that there are important public interest considerations in water provision. Pricing needs to have some capacity to reflect these. Further, the water sector is likely to remain largely owned by State and local government, factor supporting the case for continued State and regional involvement in its regulation.

The Queensland Government supports ACCP work on water reform, pricing and regulation on the basis the ACCP will develop high-level principles and frameworks and monitor progress, with jurisdictions remaining responsible for implementation.

The Queensland Government supports the establishment of a national access and pricing regulator (recommendation 50) in-principle. There is no immediate case for the transfer of Queensland water access and pricing. This can be considered over time as national frameworks and markets develop.

Recommendation 21

Informed choice

Governments should work with industry, consumer groups and privacy experts to allow consumers to access information in an efficient format to improve informed consumer choice.

The proposed ACCP (see Recommendation 43) should establish a working group to develop a partnership agreement that both allows people to access and use their own data for their own purposes and enables new markets for personal information services. This partnership should draw on the lessons learned from similar initiatives in the US and UK.

Further, governments, both in their own dealings with consumers and in any regulation of the information that businesses must provide to consumers, should draw on lessons from behavioural economics to present information and choices in ways that allow consumers to access, assess and act on them.

The Queensland Government supports the recommendation. It recognises that better provision of information to consumers can lead to improved outcomes for both consumers and industry, such as better designed goods and services, more responsive supply arrangements and product innovation.

Recommendation 22

Competition law concepts

The central concepts, prohibitions and structure enshrined in the current competition law should be retained, since they are appropriate to serve the current and projected needs of the Australian economy.

The Queensland Government agrees that Australian competition law is basically sound and supports this recommendation. It will be considering its State competition laws over time to ensure they remain appropriate and give due weight to the interests of consumers and business.

Recommendation 24

Application of the law to government activities

Sections 2A, 2B and 2BA of the CCA should be amended so that the competition law provisions apply to the Crown in right of the Commonwealth and the States and Territories (including local government) insofar as they undertake activity in trade or commerce.

This recommendation is reflected in the model legislative provisions in Appendix A.

The Queensland Government does not support the recommendation. The application of competition law to procurement and other government activities needs to be carefully considered. Its application in service delivery in particular – which could fall into the definition of ‘activity in trade or commerce’ – may increase the costs of government service delivery and reduce policy flexibility with little or no economic benefit. If the Commonwealth wishes to further explore this recommendation, the Queensland Government recommends that the Commonwealth identifies the particular government activities it wishes to target and the Queensland Government would be able to undertake a meaningful review of its activities to determine the implications for the State and undertake a full cost-benefit analysis followed by further consultation between Commonwealth, States and Territories (including local government).

Recommendation 37

Trading restrictions in industrial agreements

Sections 45E and 45EA of the CCA should be amended so that they apply to awards and industrial agreements, except to the extent they relate to the remuneration, conditions of employment, hours of work or working conditions of employees.

Further, the present limitation in sections 45E and 45EA, such that the prohibitions only apply to restrictions affecting persons with whom an employer 'has been accustomed, or is under an obligation,' to deal, should be removed.

These recommendations are reflected in the model provisions in Appendix A.

The ACCC should be given the right to intervene in proceedings before the Fair Work Commission and make submissions concerning compliance with sections 45E and 45EA. A protocol should be established between the ACCC and the Fair Work Commission.

The maximum penalty for breaches of sections 45E and 45EA should be the same as that applying to other breaches of the competition law.

The Queensland Government does not support the recommendation. The Queensland Government referred its residual industrial relations jurisdiction for the private sector to the Commonwealth to create a National Workplace Relations System. The Queensland Government continues to support the existing framework for the regulation of the National Workplace Relations System and supports the *Fair Work Act 2009 (Cth)* as appropriate in regulating modern awards and enterprise agreements.

Recommendation 42

National Access Regime

The declaration criteria in Part IIIA of the CCA should be targeted to ensure that thirdparty access only be mandated where it is in the public interest. To that end:

- Criterion (a) should require that access on reasonable terms and conditions through declaration promote a substantial increase in competition in a dependent market that is nationally significant.
- Criterion (b) should require that it be uneconomical for anyone (other than the service provider) to develop another facility to provide the service.
- Criterion (f) should require that access on reasonable terms and conditions through declaration promote the public interest.

The Competition Principles Agreement should be updated to reflect the revised declaration criteria.

The Australian Competition Tribunal should be empowered to undertake a merits review of access decisions, while maintaining suitable statutory time limits for the review process.

The Queensland Government supports part of the recommendation.

The National Access Regime is an important Australian institution promoting competition, especially in the infrastructure sector and dependent markets. The Queensland Government does not support a weakening of the regime. It therefore opposes the Review's proposed change to criterion (a). It also considers that the Commonwealth should legislate to ensure that criterion (b) is implemented as a natural monopoly test, as was originally intended, and as was the case before the High Court Pilbara case in 2012.

The Queensland Government supports the remaining elements of the recommendation.

Recommendation 43

Australian Council for Competition Policy – Establishment

The National Competition Council should be dissolved and the ACCP established. Its mandate should be to provide leadership and drive implementation of the evolving competition policy agenda.

The ACCP should be established under legislation by one State and then by application in all other States and Territories and at the Commonwealth level. It should be funded jointly by the Australian Government and the States and Territories.

The ACCP should have a five-member board, consisting of two members nominated by state and territory Treasurers and two members selected by the Australian Government Treasurer, plus a Chair. Nomination of the Chair should rotate between the Australian Government and the States and Territories combined. The Chair should be appointed on a full-time basis and other members on a part-time basis.

Funding should be shared by all jurisdictions, with half of the funding provided by the Australian Government and half by the States and Territories in proportion to their population size.

The Queensland Government supports in-principle the recommendation and the proposed new structure for competition policy and regulation.

It considers that the proposed structure – that is, a peak policy and advocacy body (ACCP), an ACCC refocused on its core competition law enforcement and consumer protection roles, and a new national access and pricing regulator – will lead to clearer operational focus and avoid conflicts of objectives.

The Queensland Government's support for the new structure is conditional on satisfactory governance arrangements for the ACCP and national access and pricing regulator, and meaningful State and Territory involvement in the structure, objectives, measures and appointments to the bodies. These arrangements need to be agreed before final support is given by Queensland.

Recommendation 44

Australian Council for Competition Policy – Role

The ACCP should have a broad role encompassing:

- advocacy, education and promotion of collaboration in competition policy;
- independently monitoring progress in implementing agreed reforms and publicly reporting on progress annually;
- identifying potential areas of competition reform across all levels of government;
- making recommendations to governments on specific market design issues, regulatory reforms, procurement policies and proposed privatisations;
- undertaking research into competition policy developments in Australia and overseas; and
- ex post evaluation of some merger decisions.

The Queensland Government supports the recommendation in-principle, subject to the condition stated in the response to Recommendation 43.

Recommendation 46

Market studies requests

All governments, jointly or individually, should have the capacity to issue a reference to the ACCP to undertake a competition study of a particular market or competition issue.

All market participants, including small business and regulators (such as the ACCC), should have the capacity to request market studies be undertaken by the ACCP.

The work program of the ACCP should be overseen by the Ministerial Council on Federal Financial Relations to ensure that resourcing addresses priority issues.

The Queensland Government supports the recommendation. However, while a market studies power would have some utility, if over-used it could push the ACCP away from its core roles of policy, reporting and advocacy. It will be important that the ACCP Board is required to approve all studies and is not obliged to agree to all requests.

Recommendation 47

Annual competition analysis

The ACCP should be required to undertake an annual analysis of developments in the competition policy environment, both in Australia and internationally, and identify specific issues or markets that should receive greater attention.

The Queensland Government supports the recommendation and considers that an annual competition analysis will be a valuable information resource for the community and governments.

Recommendation 48

Competition payments

The Productivity Commission should be tasked to undertake a study of reforms agreed to by the Australian Government and state and territory governments to estimate their effect on revenue in each jurisdiction.

If disproportionate effects across jurisdictions are estimated, competition policy payments should ensure that revenue gains flowing from reform accrue to the jurisdictions undertaking the reform.

Reform effort should be assessed by the Australian Council for Competition Policy based on actual implementation of reform measures, not on undertaking reviews.

The Queensland Government supports the recommendation. Competition payments are likely to be needed for equitable implementation. State and Territory Governments should be consulted about the terms of reference for the study and be part of the steering committee.

Recommendation 50

Access and Pricing Regulator

The following regulatory functions should be transferred from the ACCC and the NCC and be undertaken within a single national Access and Pricing Regulator:

- the telecommunications access and pricing functions of the ACCC;
- price regulation and related advisory roles of the ACCC under the Water Act 2007 (Cth);
- the powers given to the ACCC under the National Access Regime;
- the functions undertaken by the Australian Energy Regulator under the National Electricity Law, the National Gas Law and the National Energy Retail Law;
- the powers given to the NCC under the National Access Regime; and

- the powers given to the NCC under the National Gas Law.

Other consumer protection and competition functions should remain with the ACCC. Price monitoring and surveillance functions should also be retained by the ACCC.

The Access and Pricing Regulator should be constituted as a five-member board. The board should comprise two Australian Government-appointed members, two state and territory-nominated members and an Australian Government-appointed Chair. Two members (one Australian Government appointee and one state and territory appointee) should be appointed on a part-time basis.

Decisions of the Access and Pricing Regulator should be subject to review by the Australian Competition Tribunal.

The Access and Pricing Regulator should be established with a view to it gaining further functions if other sectors are transferred to national regimes.

The Queensland Government supports the recommendation in-principle. A national access and pricing regulator should build technical expertise and consistency in approach, which will increase regulatory efficiency and certainty. It will allow the ACCC to focus more clearly on its core competition law enforcement and consumer protection functions.

The Queensland Government does not consider there is a case for the immediate transfer of any of its State (QCA) regulated access and pricing functions. This might change over time as national frameworks and national markets develop. It is also open to cooperative work and consultation between the new access and pricing regulator and the QCA such as shared research on regulatory frameworks and settings.

Recommendation 55

Implementation

The Australian Government should discuss this Report with the States and Territories as soon as practicable following its receipt.

The Queensland Government supports the recommendation and will participate in discussions about the Report with other Australian jurisdictions.

Recommendation 56

Economic modelling

The Productivity Commission should be tasked with modelling the recommendations of this Review as a package (in consultation with jurisdictions) to support discussions on policy proposals to pursue.

The Queensland Government supports the recommendation.

Conclusion

The Queensland Government welcomes the release of the Final Report.

Microeconomic reform needs to be a continued priority of Australian Governments.

The Queensland Government recognises the economic benefits of competition - productivity growth and increased living standards.

The Queensland Government supports the continuation of Australian competition policy along its current lines with new effort and efficient and effective implementation.

It will continue to implement State competition policies including commitments to continued regulation review and competitive neutrality.

In terms of cross-jurisdictional matters, the Queensland Government supports new competition principles and the new institutional structure proposed by the Review. However, it is not yet convinced of the case for the proposed expansion of the scope of competition policy, into human services and across more government activities.

The Queensland Government is prepared to participate in further discussions about these and the other recommendations of the Report.

The Queensland Government encourages the Commonwealth to provide incentives to States and Territories to adopt competition reforms. These incentives should be considered further through the COAG process.

The central principle remains that competition is an instrument, not an end, and the public must ultimately benefit – and know they will benefit for reforms to be succeed.

